

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KEIRTON USA, INC., a Washington  
Corporation,

Plaintiff,

v.

U.S. CUSTOMS AND BORDER  
PROTECTION, a federal agency,

Defendant.

Case No.: 2:21-cv-00224 TSZ

**SUPPLEMENTAL DECLARATION OF  
BRADLEY P. THORESON**

I, Brad Thoreson, declare and state as follows:

1. I am one of the attorneys for Plaintiff Keirton USA, Inc., in the above-referenced matter, over the age of majority, have personal knowledge of the facts set forth herein, and am competent to testify herein.

2. Just as the Government provided new information to this Court at the hearing on the Preliminary Injunction, counsel for Keirton provides this supplemental information to this Court to support the claim that this (jurisdiction) is nothing more than a game to CBP, and that if this Court declines its concurrent jurisdiction and as a result, to rule on the 21 USC 863(f)(1) "state law exemption" declaratory judgment claim, CBP will almost certainly assert

1 the Court of International Trade (“CIT”) is not the proper forum for Keirton’s claim either,  
2 leaving Keirton in jurisdictional no man’s land.

3 3. Attached hereto as Ex. A is an interested party attorneys’ email of yesterday  
4 (Richard O’Neill of Neville Peterson LLP), describing CBP’s assertion that the CIT does not  
5 have jurisdiction over his Washington based client and company to hear its claim, after an  
6 actual protest and CBP confirmation that it had been denied.  
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8 4. Attached hereto as Ex. B are the pleadings filed in the CIT following up on the  
9 protest, running of the CBP response period, confirmation by CBP that the protest was denied,  
10 only to be told “after the fact and the day before the show cause hearing to expedite the trial”  
11 that the goods had been seized the day before the time period ran, and therefore jurisdiction in  
12 the CIT was inappropriate. That fight on jurisdiction is now subject to briefing and argument  
13 in the CIT.  
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15 5. The clear evidence is that CBP simply will do whatever it can to divest any Court  
16 of jurisdiction.

17 6. And were this Court to decline jurisdiction, and were Keirton to file the protest,  
18 it is almost a foregone conclusion that CBP will make arguments that CIT does not have  
19 jurisdiction over Keirton’s claims.  
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21 7. Stated simply, this Court has concurrent jurisdiction and should retain the case  
22 and rule on the federally created “exemption” claim, once and for all.

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1 I declare under penalty of perjury under the laws of the United States of America that  
2 the foregoing is true and correct.

3 DATED April 2, 2021, at Seattle, Washington.

4 /s/ Brad P. Thoreson

5 Brad P. Thoreson  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of April, 2021, I caused to be served a copy of the foregoing on the following persons in the manner indicated below at the following addresses:

Nickolas Bohl	<input type="checkbox"/>	U.S. Mail
Amy Hanson	<input type="checkbox"/>	Via Email
U.S. Attorney's Office	<input checked="" type="checkbox"/>	Via ECF Filing
U.S. Customs and Border Protection		
700 Stewart St., Ste 5220		
Seattle, WA 98101		
Email: nickolas.bohl@usdoj.gov		
Email: amy.hanson@usdoj.gov		

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: April 2, 2021, at Seattle, Washington.

/s/ Elena Ortiz  
Elena Ortiz, Legal Assistant